

Chapter 44

TAXATION*

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ARTICLE I. IN GENERAL

Sec. 44-1. Prior provisions saved.

In the compilation of this Code various provisions of chapter 44 (taxation) of the prior (1968) edition of the Code of Ordinances, as amended were deleted by virtue of their having been superseded by the Texas Property Tax Code; the said provisions which were deleted are expressly saved from repeal, notwithstanding the adoption of this Code or any provision contained in the ordinance adopting this Code, to the extent that they remain applicable to any delinquent taxes which have not been collected or to any cause of action relating thereto.

Sec. 44-2. Annual levy; effect of failure to levy.

It shall be the duty of the city council, at its first meeting in January of each and every year, to levy such ad valorem and occupation taxes as may be necessary to cover the expenses of the city government for the current year; provided, the failure to levy such taxes at such meeting shall not prevent the same being levied at any such subsequent meeting of the council, and if the council should fail or neglect to pass a tax ordinance for any year, levying the taxes for that year, the tax ordinance last passed will be considered in force, and the failure to pass such ordinance shall in no wise invalidate the collection of the tax for that year.

(Code 1968, § 44-2)

Sec. 44-3. Property subject to taxation; applicability of state law.

All real, personal or mixed property held, owned or situated in the city, except such as may be

expressly exempted in or pursuant to this article, is subject to taxation, and the same shall be rendered and listed in the manner prescribed by the general laws in regard to general state taxation, when applicable. The definition of property and terms, as defined by the general state laws under the head of taxation, and what is subject to taxation, as prescribed by the general laws of this state, shall apply to the taxation of this city. (Code 1968, § 44-3)

Sec. 44-4. Tax exemption for resident homesteads.

(a) There is hereby exempted from all ad valorem taxes hereafter levied by the city a portion of the appraised value of residence homesteads of persons, married or unmarried, including those living alone, who are under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance, or its successor, or of married or unmarried persons 65 years of age or older, including those living alone. Effective January 1, 2002, the amount of the aforesaid exemption shall be \$40,000.00 for the tax year 2002. Effective January 1, 2003, the amount of the aforesaid exemption shall be \$44,000.00 for the tax year 2003. Effective January 1, 2004, the amount of the aforesaid exemption shall be \$48,400.00 for the tax year 2004. Effective January 1, 2005, the amount of the aforesaid exemption shall be \$53,240.00 for the tax year 2005. Effective January 1, 2006, the amount of the aforesaid exemption shall be \$58,564.00 for the tax year 2006. Effective January 1, 2007, the amount of the aforesaid exemption shall be \$64,420.00 for the tax year 2007 and for each year thereafter.

*Cross references—Payment of ad valorem taxes as prerequisite to automobile wrecker license, § 8-144; payment of ad valorem taxes as prerequisite to putting taxicabs in operation, § 46-19.

(b) An owner of a residence homestead is hereby granted an exemption of 40 percent of the market value of such residence homestead for the years 1982 through 1984, 30 percent for the years 1985 through 1987, and 20 percent in 1988 and each subsequent year. Any exemption granted under this subsection shall be administered in a manner consistent with the applicable provisions of the state Property Tax Code.

(Code 1968, § 44-4; Ord. No. 72-2298, § 1, 12-13-72; Ord. No. 73-1783, § 1, 9-5-73; Ord. No. 74-1433, § 1, 8-14-74; Ord. No. 75-584, § 1, 4-15-75; Ord. No. 77-502, § 1, 3-15-77; Ord. No. 77-900, § 1, 5-10-77; Ord. No. 78-1294, § 1, 6-28-78; Ord. No. 80-675, § 1, 3-26-80; Ord. No. 82-481, § 1, 3-23-82; Ord. No. 88-1700, § 1, 10-26-88; Ord. No. 94-673, § 1, 7-6-94; Ord. No. 02-647, § 1, 7-10-02)

Sec. 44-5. Tax relief for historical sites.

(a) The city council may, by ordinance, grant tax relief in the form of an exemption from ad valorem taxation to any "historic site," which for purposes of this section means a structure that has been designated as a landmark or as a contributing structure or a potentially contributing structure in a historic district pursuant to article VII of chapter 33 of this Code. The historic site must meet the first of the following qualifications, and, in the case of any historic site that is designated as a potentially contributing structure, the second qualification:

- (1) At any time following the designation of the historic site by the city council pursuant to article VII of chapter 33 of this Code, the owner must perform restoration or preservation of the historic site to encourage its preservation. The work performed must be at a cost of at least 50 percent of the assessed value of the historic structure or improvements, not including the value of any land associated with the historic site. The required expenditure shall be determined by the director of finance and administration, based upon the assessed value of the historic structure or improvements not including the value of any land associated with the historic site prior to the work ("the base value"). Only expenditures made for work

performed following the designation of the property by the city council pursuant to article VII of chapter 33 of this Code may be applied.

- (2) For a potentially contributing structure, the restoration or preservation made or proposed to be made must have the effect of reversing incompatible alterations or deteriorating conditions of the structure, as evidenced by a certificate of appropriateness issued by the Houston Archaeological and Historical Commission.

The denial of any application for a certificate of appropriateness under article VII of chapter 33 of this Code shall be grounds for denial or revocation of any tax exemption authorized by this ordinance.

(b) Each historic site for which a tax exemption is sought must meet the applicable qualifications set out in subsection (a) hereof. The historic site must not be or have been the subject of a certificate of appropriateness, as defined in section 33-201 of this Code, issued pursuant to sections 33-247 or 33-250 of this Code, which shall be grounds for denial or revocation of the exemption. Each owner desiring the tax exemption must make sworn application to the director of finance and administration of the city. The application shall be in a form approved by the director of finance and administration and shall set forth facts sufficient to show that the historic site is eligible for tax relief hereunder.

(c) An exemption granted hereunder by the city council shall exempt the historic structure or improvements not including the value of any land associated with this historic site from ad valorem taxation on the basis of qualifying expenditures made for bona fide restoration or preservation, as determined by the director of finance and administration upon demonstration by the owner. The exemption shall be computed on the following basis:

- (1) If the said qualifying expenditures are at least 50 percent but less than 100 percent of the base value, then the exemption for each tax year on the assessed value of the structure shall be equal to the amount of the qualifying expenditures; or

- (2) If the said qualifying expenditures are 100 percent or more of the base value of the improvements, then the exemption for each tax year shall be one hundred percent of the assessed value of the historic structure or improvements not including the value of any land associated with this historic site.

In any event, however, the exemption granted to any historic site pursuant to this section shall be subject to a limitation in the form of a maximum dollar amount. The maximum dollar amount shall be the assessed value of the historic structure in the year following demonstration of completion of the restoration or preservation work and demonstration of the qualifying expenditures to the director of finance and administration. The amount of the exemption allowed on a historic structure shall not exceed the aforesaid maximum dollar amount in any tax year for the duration of the exemption period.

The duration of the aforesaid exemption shall be for a period of 15 years if the restoration project receives no financial incentive from the city funded by municipal hotel occupancy taxes, or ten years if the restoration project receives a financial incentive from the city funded by municipal hotel occupancy taxes. The exemption shall begin on January 1 of the year following the date that the director of finance and administration makes the determination that the owner of the historic site has met all of the requirements of this section for an exemption.

The director of finance and administration, in consultation with the planning official, shall establish and promulgate written procedures for the implementation of the exemption provided herein and the review of applications, and the said officials shall jointly make a recommendation to the city council regarding each application that is duly submitted for consideration.

(d) An exemption granted under this section shall be effective as of January 1 of the year following demonstration of completion of the restoration or preservation work and demonstration of the making of the qualifying expenditures to the director of finance and administration. If sufficient restoration work on a designated his-

toric site has not been completed to satisfy either subdivision one or two of subsection (c) above within five years of the passage of a historic site tax exemption ordinance, then said ordinance shall expire. After the expiration of any such ordinance under the terms of this provision, upon a showing of good cause for the delay, the owner of the historic site may apply for a new tax exemption ordinance.

(e) The exemption shall be automatically continued as of January 1 of each year succeeding the year the exemption was first granted for the duration of the ten or 15 year period. The exemption shall be continued in the event of a transfer of an ownership interest or a portion of an ownership interest in the historic structure during such ten or 15 year period. However, the exemption shall be terminated in the event of a second transfer of an ownership interest or a portion of an ownership interest in a historic structure, other than a single-family property containing no more than four residential units, during such ten or 15 year period. In the case of a condominium or other multi-family residential building, the second transfer of an ownership interest or a portion of an ownership interest in an individual unit shall cause the termination of the exemption pertaining to that particular unit. As used in this section, a "transfer" of an ownership interest or portion of an ownership interest shall not include such transfers as a lease, a mortgage, a transfer by inheritance, a creation of a trust for the benefit of the owner, or other transaction not ordinarily regarded as a "sale" of property.

A person who has an ownership interest in property that has been granted a historic site exemption from ad valorem taxation shall record a copy of the ordinance providing for such exemption in the real property records of the county in which the property is located. Failure on the part of the applicant to deliver a copy of such recorded ordinance, showing the date of recordation in the appropriate real property records, to the director of finance and administration within 90 days of the date of passage of the ordinance providing for a tax exemption shall cause the expiration of the exemption at the end of such 90-day period.

(f) The director of finance and administration shall conduct an annual review of each property granted an exemption hereunder, and, if he finds that any city taxes assessed on the subject property are delinquent, the historic site has deteriorated, has been demolished or destroyed, or has been the subject of a certificate of appropriateness issued pursuant to sections 33-247 or 33-250 of this Code, then the changed condition shall constitute grounds for revocation of the exemption.

(g) Tax receipts and tax certificates issued for any historic site receiving tax relief pursuant to this section shall be clearly marked: "Historic site—Subject to recapture of additional taxes under Code of Ordinances." Each year during which the property is granted tax relief, the director of finance and administration shall note on his records the valuation which would have been made and the taxes that would have been due had the historic site not qualified for tax relief under this section. If the historic site is subsequently damaged, demolished, or destroyed, or if a certificate of appropriateness is issued for the historic site pursuant to sections 33-247 or 33-250 of this Code, then the property shall be subject to an additional tax. The additional tax shall be equal to the difference between taxes paid or payable hereunder and the amount of the tax payable for the preceding five years had the property not been granted tax relief. Until paid, there shall be a lien for additional taxes, penalty, and interest on the property granted tax relief under the provisions of this section. Additionally, the property shall not be entitled to tax relief for the years in which the damage or demolition occurred.

(h) A historic site for which an exemption has expired or has been withdrawn, revoked, or terminated may not requalify hereunder except as allowed under subsection (d).

(i) It is the policy of the city to facilitate the issuance of building permits for work to be performed under this section. Consistent with the terms of the Construction Code, the building official shall work with persons who are performing preservation and restoration work to allow alternative methods of construction and alternative materials that are determined to be suitable under the provisions of the Construction Code

and shall waive strict conformance with the Construction Code as authorized by Section 3406.1 of the Building Code.

(j) Notwithstanding any other provision of this code, a structure that has been designated as a landmark or as a contributing structure or a potentially contributing structure in a historic district pursuant to article VI of chapter 33 of this Code and that is owned by the State of Texas or a political subdivision thereof is entitled to an exemption equal to 100 percent of the assessed value of the historic structure and the land necessary for access and use of such structure. If an application for an exemption pursuant to this subsection is granted prior to the adoption of the ad valorem tax rate for the tax year in which the application is granted, the exemption shall be effective as of January 1 of that tax year. If such an application is granted after the adoption of the ad valorem tax rate for the tax year in which the application is granted, the exemption shall be effective as of January 1 of the tax year following the date the application was granted. An exemption granted pursuant to this subsection shall remain effective until the property is sold. The director of finance and administration shall conduct an annual review of each property granted an exemption pursuant to this subsection, and if he finds that a historic site has deteriorated or has been demolished or destroyed, then such changed condition shall constitute grounds for revocation of the exemption.

(Code 1968, § 44-4.1; Ord. No. 81-625, § 1, 4-1-81; Ord. No. 95-227, § 2, 3-1-95; Ord. No. 01-212, § 2, 3-7-01; Ord. No. 02-399, § 91, 5-15-02; Ord. No. 02-838, § 2, 9-4-02; Ord. No. 03-159, § 10, 2-12-03; Ord. No. 04-955, § 1, 9-15-04)

Sec. 44-6. Property liable for taxes due by owners.

All real, personal and mixed property held, owned or situated in the city shall be liable for all taxes due by the owners thereof, including taxes on real estate, franchises, personal and mixed property.

(Code 1968, § 44-5)

Sec. 44-7. Power of tax assessor-collector to enter premises and inspect property.

In the performance of his duties, the tax assessor-collector, or any of his deputies or duly and legally

authorized representatives, shall have the power and authority to enter upon and into the premises, after having demanded entrance, of any person for the purpose of ascertaining what property such person has on hand that is subject to taxation. The tax assessor-collector, or any of his deputies or duly and legally authorized representatives, shall have the power and authority to inspect all property located on the premises for the purpose of obtaining an inventory to be filed for the purpose of taxation of the property included in such inventory and for the purpose of fixing the taxable value of the property found thereon. It shall be unlawful for any person to refuse to allow the tax assessor-collector for the city, or any of his deputies or duly and legally authorized representatives, to enter upon and into the premises as above provided after demand has been made by such person for admittance. (Code 1968, § 44-11)

Sec. 44-8. Invalid city tax assessments.

(a) The tax assessor-collector shall notify the city council of any city tax assessments on real or personal property that he shall discover to be invalid, as defined and provided herein.

(b) An invalid assessment, within the meaning of this subsection is one that is:

- (1) On property outside the taxing jurisdiction, hereinafter referred to as "outside jurisdiction";
- (2) On property that is exempt from taxation, hereinafter referred to as "exempt";
- (3) A second or double assessment on property properly assessable, hereinafter referred to as "double".

In notifying the council of such invalid city tax assessments under this subsection, the tax assessor-collector shall prepare lists and on each list show the name and address of the property owner, the account number, the property description, the amount of the assessment, the taxes, and the reason that the assessment is invalid. The reasons, above, for an assessment being invalid may be indicated on each list by the words "outside

jurisdiction," "exempt," "double." Each list shall be certified to by the tax assessor-collector as follows:

"This is a correct list of invalid assessments as provided for by the ordinances of the City of Houston."

One or more lists shall be forwarded to the city council attached to a form of ordinance which contains in its caption the reasons that the assessments are invalid and which provides for the city council:

- (i) To find the city tax assessment invalid, and
- (ii) To order such assessments and the city taxes based thereon cancelled.
- (c) An invalid assessment, within the meaning of this subsection, is one that is:
 - (1) Grossly excessive, for example, the assessment of property at 100 percent or more above its fair market value, hereinafter referred to as "grossly excessive";
 - (2) Discriminatory, for example, the use of a different appraisal standard than used for similar property, hereinafter referred to as "discriminatory"; and
 - (3) An assessment that is illegal for any other reason, hereinafter referred to as "illegal";

In notifying the council of such invalid city tax assessments under this subsection, the tax assessor-collector shall prepare lists and on each list show the name and address of the property owner, the account number, the property description, the amount of the assessment, the taxes, and the reason that the assessment is invalid. The reasons, above, for an assessment being invalid may be indicated on each list by the words "grossly excessive," "discriminatory," and "illegal," respectively. Each list shall be certified to by the tax assessor-collector as follows:

"This is a correct list of invalid assessments as provided for by the ordinances of the City of Houston."

Every such invalid assessment shall be accompanied by affidavits and an opinion from the city

attorney, based upon the facts set out in such affidavits, stating it to be his opinion that the assessment could properly be found invalid by the council. One or more lists shall be forwarded to the city council attached to a form of ordinance which contains in its caption the reasons that the assessments are invalid and which provides for the city council:

- (i) To find the city tax assessment invalid; and
- (ii) To order such assessments and the city taxes based thereon cancelled.

(d) The tax assessor-collector shall immediately reassess all taxable property on which the assessment has been cancelled under the terms hereof and place the same on the supplemental roll to be equalized prior to the next time the tax roll is approved by the board of appraisement. (Code 1968, § 44-16.1; Ord. No. 68-1163, §§ 1—3, 7-17-68; Ord. No. 81-690, § 1, 4-14-81)

Sec. 44-9. Partial payment of current taxes based on a proposed reassessment.

(a) The tax assessor-collector is hereby authorized to accept a partial payment of current taxes on property if:

- (1) It appears that the tax assessment for the current year on the property is invalid, and the tax assessor-collector has affidavits or other documents proving that the assessment for the current year is invalid as provided by the section on invalid assessments; and
- (2) The tax assessor-collector has recommended that the assessment be cancelled by the city council; and
- (3) The tax assessor-collector has also received full, true and complete information upon which a valid reassessment can be made; and
- (4) The payment is equal to what a payment in full on the reassessment would be.

After the partial payment in the amount aforesaid has been made, the tax assessor-collector

shall issue a tax receipt clearly marked "partial payment receipt." It shall also contain the following notation:

"This receipt represents a partial payment of taxes originally assessed for the year shown and the amount thereof is tendered by the taxpayer and accepted by the City of Houston and/or Houston Independent School District with the express understanding that it will not in any way impair the balance of the taxes due for the year nor the lien securing same."

(b) In the event that a prior assessment is cancelled, a reassessment made and the assessment roll has been changed to show the new value, a copy of the portion of the roll showing the new amount and the "partial payment receipt" shall constitute a receipt in full for the tax for that year.

(Code 1968, § 44-17; Ord. No. 79-1809, § 1, 10-23-79)

Sec. 44-10. Tax assessor-collector to be charged with total amount of taxes due.

After the certificates of the board of appraisement and the tax assessor-collector have been entered in the minutes of the meeting of the city council, it shall be the duty of the city controller to charge to the account of the tax assessor-collector the total amount of taxes due the city for the current year, as shown on such assessment roll and by his certificates, which amount shall be a valid claim against such tax assessor-collector and the sureties on his official bond, until the same shall be properly accounted for.

(Code 1968, § 44-28)

Sec. 44-11. When taxes due and payable; penalty and interest on delinquent taxes.

(a) All taxes, except occupation and license taxes, are hereby declared to become due and payable on the first day of each and every year, and if not paid by the thirty-first day of December following, shall be deemed delinquent, and beginning with the delinquent taxes for the year 1933 and every year thereafter, a penalty of two (2) percent upon the amount of the taxes due shall be added and paid, if paid during the month of January following such delinquency; four (4) percent if paid during the month of February following such delinquency; six (6) percent if paid during the month of March following such delinquency; eight (8) percent if paid during the month of April following such delinquency; nine (9) percent if paid during the month of May following such delinquency; and ten (10) percent if paid thereafter; and interest shall be charged upon the gross amount of the tax and penalty due until paid, at the rate of six (6) percent per annum.

(b) On all assessments made after the year of the tax, the six (6) percent per annum interest shall be calculated the same as if the assessment had been made during the year of the tax and the ten (10) percent penalty shall be calculated as if the tax did not occur until the year in which the assessment was made. All assessments for prior years made during the month of December shall be considered for purposes of calculating penalty to have been made during the calendar year next succeeding.

(c) The provisions of the foregoing subsection (a) and (b) shall not apply to the calculation of penalty and interest from and after January 1, 1982, being the effective date of Chapter 33 of the Texas Property Tax Code.

(Code 1968, § 44-30; Ord. No. 70-1813, § 1, 1-14-70)

Sec. 44-12. Where taxes payable.

All city taxes shall be payable at the office of the tax assessor-collector.

(Code 1968, § 44-31)

Sec. 44-13. Extension of time for payment, remitting, etc., of taxes and holding city position while owing taxes prohibited.

In no case shall the city council or any member of the city council, or any other officer of the city, extend the time for the payment of the taxes; nor shall any officer of the city remit, discount or compromise any taxes legally due the city; nor shall any person be elected mayor or councilman of the city, or hold any position, office or employment thereunder who is in arrears, or due and owing to the city any sum of money for taxes or otherwise.

(Code 1968, § 44-34)

Sec. 44-14. Payment of taxes to be credited on property; receipt for payment.

All sums of money received by the tax assessor-collector in payment of taxes, other than occupation or license taxes, shall be credited on the particular tract of land or parcel of property, or the specific item of personal property, upon which the tax is due, and a proper receipt shall be given therefor.

(Code 1968, § 44-35)

Sec. 44-15. Partial payment of current taxes on homestead.

(a) The tax assessor-collector is hereby authorized to accept a partial payment of current taxes on a homestead or veteran's property if:

- (1) The taxpayer claims a partial homestead or veteran's exemption after the assessment roll has been approved; and
- (2) The tax assessor-collector has been furnished a proper claim document proving that the taxpayer is entitled to the exemption.

After the partial payment has been made based on the proposed net taxable value of the property the tax assessor shall issue a tax receipt clearly marked: "partial payment receipt." It shall also contain the following notation:

"This receipt represents a partial payment of taxes originally assessed for the year shown

and the amount thereof is tendered by the taxpayer and accepted by the City of Houston and/or Houston Independent School District with the express understanding that it will not in any way impair the balance of the taxes due for the year nor the lien securing same."

(b) In every event where the tax assessor-collector has been furnished the foregoing document proving the taxpayer's right to a partial tax exemption and as provided by the constitution and laws of this state, the tax assessor-collector shall correct the roll to show the correct net taxable value. As soon as practicable after the close of the tax year, the tax assessor-collector shall report in writing to the city council the total dollar amount of such corrections to the assessment roll.

(c) In the event that the assessment roll has been corrected to show the correct taxable value, a copy of the portion of the roll showing the corrected amount and the "partial payment receipt" shall constitute a receipt in full for the tax for that year.

(Code 1968, § 44-35.1; Ord. No. 79-1810, § 1, 10-23-79)

Sec. 44-16. Partial payment of delinquent taxes, penalty and interest.

The tax assessor-collector of the city is hereby authorized to accept partial payment on delinquent taxes and the penalty and interest due thereon, subject to the conditions set out herein; provided, each partial payment shall be credited against the oldest delinquent tax year or years, and provided further, that each payment shall be divided into the part of the tax actually paid and the penalty and interest due on such part to the date of the partial payment. The tax assessor-collector shall issue a "partial payment receipt" to the taxpayer showing the actual amount paid broken down into tax, penalty and interest. Such partial payments shall be apportioned ratably to the city and school taxes due for the year or years to which they are applied and they shall be in amounts which will clear the delinquency within a reasonable time.

(Code 1968, § 44-40.1; Ord. No. 69-966, § 1, 5-28-69)

Sec. 44-17. Assignment of tax judgments.

Upon the payment of any person of all taxes, penalties, interest and costs due to the city in any judgment recovered by the city against delinquent taxpayers for city taxes to the tax assessor-collector, the mayor and city secretary are hereby authorized to transfer and assign such judgment to the person so paying; provided, such transfer shall not be made except by consent of the delinquent taxpayer.

(Code 1968, § 44-48)

Sec. 44-18. Purchase of property sold to city for taxes.

(a) Any person who desires to buy any property which has been sold to the city for city taxes at an execution sale, shall except as heretofore provided, first pay to the tax assessor-collector the entire amount of taxes, penalties, interest and costs that may be due on such property.

(b) After such payment by such person the tax assessor-collector shall certify to the delinquent tax attorney that such payment has been made; and the city delinquent tax attorney, upon receipt of such certificate or statement, shall prepare a quitclaim deed to such property to the person making the payment, reciting in the deed as consideration the payment shown by the certificate of the tax assessor-collector and shall endorse on such deed his approval thereof.

(c) The delinquent tax attorney shall transmit the quitclaim deed, together with the certificate of the city tax assessor-collector, to the city secretary, who shall retain possession of such certificate as a permanent record of the office of the city secretary, and it shall thereupon be the duty of the mayor and city secretary to execute such deed in behalf of the city.

(Code 1968, § 44-52)

Sec. 44-19. Claims for refunds of ad valorem taxes.

(a) If a taxpayer applies to the tax assessor-collector of the city for a refund of an overpayment or erroneous payment of city ad valorem taxes and the city treasurer determines that the

payment was erroneous or excessive, the tax assessor-collector shall refund the amount of the excessive or erroneous payment from available current city tax collections or from funds appropriated by the city council for making refunds.

(b) Each claim shall be in the form of an affidavit by the claimant describing in full the circumstances of the payment. Each claim shall be accompanied by a valid tax receipt or other acceptable proof of payment.

(c) No refund shall be made to a taxpayer who is delinquent in the payment of any tax collected by the city tax assessor-collector or who otherwise owes any sum of money whatsoever to the city.

(d) No refund of any tax shall be made under any circumstances unless and until the same has been approved in writing by the legal department.

(e) If the amount of the refund exceeds \$500.00, the tax assessor-collector shall not make the refund unless the city council also determines that the tax payment was erroneous or excessive and approves the refund.

(f) A written application for a refund must be received by the tax assessor-collector within three years after the date of the payment or the refund shall not be allowed.

(g) No warrant shall be issued in payment of any claim unless and until all the above requirements have been complied with.

(Code 1968, § 44-52.1; Ord. No. 68-1162, §§ 1, 2, 7-17-68; Ord. No. 71-93, § 1, 1-13-71; Ord. No. 77-1068, § 1, 5-13-77; Ord. No. 80-144, § 1, 1-29-80)

**Sec. 44-20. Paving assessment lien releases—
Authority to execute.**

(a) In any instance in which the record in the office of the city's tax assessor-collector reflects the fact that an assessment against a particular parcel of property in connection with any particular paving project has been paid in full, he is hereby authorized to execute in the name of the city and to acknowledge and deliver to any person requesting the same, a due and proper release reciting the fact of such payment and releasing the particular parcel of property involved from

the assessment lien; and in any instance in which he is assured, either by the city controller, the city engineer, or the city attorney or a responsible assistant to him, that any paving assessment, the detailed record in connection with which is not being kept in his office, has been paid in full, he is also hereby authorized to execute, acknowledge and deliver such due and proper release. A request in writing to the tax assessor-collector, by the city controller, the city engineer, or the city attorney or any of his responsible assistants, shall constitute and have the effect of a certificate to him that the assessment in question has in fact been paid in full and that a release is in order.

(b) In any instance in which it is made to appear to the finance and administration director of the city or to the mayor that any paving assessment owned or held by the city has been paid in full, they and either of them are hereby also authorized to execute, acknowledge and deliver such a release, being also entitled to rely for their assurance that the assessment has been paid in full, upon a written request therefor by the city controller, the city engineer, the city attorney or a responsible assistant to him, or a responsible assistant to the tax assessor-collector.

(c) In any instance in which the ordinance levying assessments with respect to a particular project indicates that no assessment was levied against a particular parcel of property included within the originally initiated limits of such project, the director of treasury is hereby authorized, upon approval by the city attorney or one of his assistants, to execute, acknowledge and deliver a due and proper release of the apparent lien against such property arising by virtue of the recording of the notice prescribed by article 1220a, Revised Civil Statutes of Texas.

(d) In any instance in which it is made to appear to the satisfaction of the city attorney, by affidavits or otherwise, that a particular parcel of property included within the originally initiated limits of an assessment street-improvement project was, on the effective date, the exempt homestead of the owner or owners of such parcel, then the director of treasury is hereby authorized, upon approval by the city attorney or one of his assistants, to execute, acknowledge and deliver a due

and proper release of the apparent lien against such property arising by virtue of the recording of the notice prescribed by article 1220a, Revised Civil Statutes of Texas. Any such release shall include a provision that the execution and delivery thereof shall not affect the personal liability of the true owners of the property with respect to the assessment.

(e) A fee shall be imposed for each release of lien provided hereunder as specified in section 2-125 of this Code.

(Code 1968, § 44-53; Ord. No. 74-831, §§ 1, 4, 5-21-74; Ord. No. 90-635, § 147, 5-23-90)

Cross reference—Paving assessments, § 40-250 et seq.

Sec. 44-21. Same—Attestation under city seal.

None of the releases authorized by section 44-20 of this Code shall require for their validity that they be attested by the city secretary or be under the seal of the city; provided, in any instance in which a particular person may desire and express a request that a release be furnished which is so attested under the city's seal, the city secretary is hereby authorized, upon there being presented to him duly signed by any of the foregoing authorized persons, a release releasing any such paving assessment, to attest the same under the city's seal.

(Code 1968, § 44-54)

Sec. 44-22. Residence homestead exemption.

(a) An owner of a residence homestead is hereby granted an exemption of 30 percent of the market value of such residence homestead for the year 1987.

(b) Any exemption granted hereunder shall be administered in a manner consistent with the applicable provisions of the state Property Tax Code.

(Code 1968, § 44-55; Ord. No. 83-1945, § 1, 12-1-83; Ord. No. 84-1839, § 1, 11-27-84; Ord. No. 85-1828, § 1, 10-15-85; Ord. No. 86-605, § 1, 4-29-86; Ord. No. 87-598, § 1, 4-28-87)

Sec. 44-23. Reserved.

Editor's note—Former § 44-23 was repealed by § 3 of Ord. No. 88-104, enacted Jan. 20, 1988. The repealed provisions

pertained to a tax abatement program and derived from Ord. No. 85-55, § 1, enacted Jan. 15, 1985 and Ord. No. 87-1304, § 1, enacted July 29, 1987.

Sec. 44-24. Definition.

As used in this chapter, the term ad valorem property tax revenues means all revenues collected as a result of the taxation of real and personal property in the city, both current and delinquent.

(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-25. Tax rate limitation.

The city council shall not, except by ordinance approved by two-thirds of the full city council, levy ad valorem taxes at a rate expected to increase the city's ad valorem property tax revenues for the then current fiscal year in an amount greater than five percent more than the ad valorem property tax revenues collected during the immediately preceding fiscal year.

(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-26. Verification.

Each year before the adoption of an ordinance levying ad valorem taxes in the city, the city controller must furnish written verification as to whether the ad valorem tax rate proposed is expected to produce ad valorem property tax revenue collections during the then current fiscal year of no more than five percent more than the ad valorem property tax revenues collected in the immediately preceding fiscal year.

(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-27. Notice.

Before the passage of any ordinance required under section 44-25 of this Code, city council shall:

- (1) Have published in the major Houston newspaper, at least 30 days prior to the date of passage, an analysis of anticipated increased revenues; and
- (2) Hold at least three public hearings thereon no less than ten days before the date of passage, each at least a week apart from the other hearing, which may be combined with any hearing required by the

Texas Tax Code. Two of such required public hearings would be held in the evening and one during the day.
(Ord. No. 03-737, § 1, 8-6-03)

Sec. 44-28. Effect of annexation.

Ad valorem property tax revenues collected from any properties annexed after calendar year 2002 will be excluded from the calculation described in section 44-25 of this Code for the fiscal year in which the property is annexed.
(Ord. No. 03-737, § 1, 8-6-03)

Secs. 44-29—44-74. Reserved.

**ARTICLE II. SPECIFIC OCCUPATION
TAXES**

DIVISION 1. GENERALLY

Secs. 44-75—44-81. Reserved.

DIVISION 2. COIN-OPERATED MACHINES

Sec. 44-82. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Coin-operated machines.* The term "coin-operated machine" shall mean and include every machine or device of any kind or character which is operated by or with coins, metal slugs, tokens, checks or similar objects. A machine designed and manufactured to be so operat-

ed, but which is operated by payment of a fee for its use is included in this definition. Music coin-operated machines and skill and pleasure coin-operated machines, as those terms are hereafter defined, shall be included in such term.

- (2) *Merchandise coin-operated machine.* The term "merchandise coin-operated machine" shall mean and include every coin-operated machine of any kind which dispenses or vends, or which is used or operated for dispensing or vending merchandise, commodities, or confections, and which is operated by or with coins, metal slugs, tokens or checks or similar objects. The following are expressly included within such term: Candy machines, gum machines, sandwich machines, handkerchief machines and sanitary drink cup machines.
- (3) *Music coin-operated machine.* The term "music coin-operated machine" shall mean and include every coin-operated machine of any kind or character which dispenses or vends, or which is used or operated for dispensing or vending music and which is designed and manufactured to be operated by or with coins, metal slugs, tokens, checks or similar objects. The following are expressly included within such term: Coin-operated phonographs, pianos, gramophones, radios and all other coin-operated machines which dispense or vend music.
- (4) *Operator.* The term "operator," shall mean and include any person who exhibits, displays or permits to be exhibited or displayed, in his or its place of business or upon premises under his or its control, any coin-operated machine in the city.
- (5) *Owner.* The term "owner" shall mean and include any person owning or having the care, control, management or possession of any coin-operated machine in the city. The owner is solely responsible for paying to the city the occupation tax on each coin-operated machine exhibited or displayed within the city and for securing the city decal evidencing payment of such tax on each coin-operated machine.
- (6) *Service coin-operated machine.* The term "service coin-operated machine" shall mean and

include pay toilets, pay telephones and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure.

- (7) *Skill or pleasure coin-operated machine.* The term "skill or pleasure coin-operated machine" shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine dispenses or is capable of being used or operated for amusement or pleasure, or when such machine is operated for the purpose of dispensing or affording skill or pleasure or for any other purpose other than the dispensing or vending of merchandise, music or service exclusively, as those terms are defined herein. The following are expressly included within such term: Marble machines, marble table machines, marble-shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, billiard tables and all other coin-operated machines which dispense or afford skill or pleasure. Every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of skill or pleasure shall be considered a skill or pleasure coin-operated machine.

(Code 1968, § 44-72; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-83. Tax imposed; amount; registration.

(a) Every owner who exhibits or displays, or who permits to be exhibited or displayed in the city any coin-operated machine shall pay, and there is hereby levied on each coin-operated machine, except those that are exempt under section 44-89, an annual occupation tax in the amount of fifteen dollars (\$15.00). All occupation taxes for coin-operated machines are payable annually in advance. Upon payment of the tax every owner shall register each machine by make, model and serial number with the tax assessor-collector or his designated agents.

(b) Whenever an owner shall exhibit or display, or permit to be exhibited or displayed, any

coin-operated machine for commercial use, there shall be securely attached thereto a decal issued by the tax assessor-collector evidencing payment of the tax applicable thereto. Each coin-operated machine is subject to the occupation tax when exhibited or displayed for commercial use within the city. Since the tax is payable in advance on an annual calendar year basis, the following pro rata tax rate schedule will be applicable to a coin-operated machine which is first exhibited or displayed for commercial use within the city during any quarter of the calendar year:

- (1) First quarter: January 1 to March 31—An amount equal to the applicable annual occupation tax;
- (2) Second quarter: April 1 to June 30—An amount equal to three-quarters of the applicable annual occupation tax;
- (3) Third quarter: July 1 to September 30—An amount equal to one-half of the applicable annual occupation tax; and
- (4) Fourth quarter: October 1 to December 31—An amount equal to one-quarter of the applicable annual occupation tax.

In computing any tax payable under the aforesaid pro rata tax rate schedule, amounts calculated thereunder shall be rounded to the next higher full cent amount as required.

(Code 1968, § 44-73; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 81-2477, § 1, 12-15-81; Ord. No. 82-26, § 1, 1-5-82; Ord. No. 91-1649, § 1, 11-26-91)

Sec. 44-84. To whom tax payable.

All occupation taxes provided for in this division shall be paid to the tax assessor-collector, or his authorized departmental employees.

(Code 1968, § 44-74; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-85. Display and issuance of decal evidencing payment; penalties for noncompliance.

(a) The decal issued by the tax assessor-collector to evidence payment of the tax levied herein shall be securely attached with its own adhesive to be a fixed, noninterchangeable part of the coin-operated

machine so as to be easily seen by the public. This decal shall be of such a nature that the word "void" will appear if one attempts to remove it.

(b) During the period commencing on December fifteenth and ending on December thirty-first of each year, owners shall pay the occupation tax, register the machines taxed, and thereby receive a decal for each coin-operated machine to be within the city on January first. At the same time, owners may also pay taxes and receive decals for unregistered machines, up to ten (10) percent over the number registered. As a decal is placed on an additional machine, the owner shall notify the tax assessor-collector of each machine's make, model, and serial number, thereby registering it.

(c) If, during each calendar year, an owner desires to secure more decals than the additional ten (10) percent which may be obtained during the period from December fifteenth through December thirty-first, such decals shall be issued upon payment of the tax applicable to the calendar quarter in which such decals are obtained.

(d) It shall be unlawful for an owner to permit to be exhibited or displayed for commercial use any coin-operated machine which does not have properly attached thereto a decal evidencing payment of the applicable occupation tax. The owner of a coin-operated machine on which the tax has not been paid or which does not have a decal thereon evidencing payment shall forfeit to the city as a penalty the sum of twenty-five dollars (\$25.00). The penalty, if not paid, shall be recovered in a suit by the city attorney in a court of competent jurisdiction.

(Code 1968, § 44-75; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 81-2326, § 1, 11-24-81)

Sec. 44-86. Sealing machine for nonpayment, generally.

After January thirty-first of each year, the tax assessor-collector, or his departmental employees, will seal, in a manner that will prevent further operation, any coin-operated machine upon which the tax required by this division has not been paid or upon which the decal is not properly displayed. Any owner subject to this division shall be required to pay a fee of five dollars (\$5.00) for the release of any machine sealed as provided herein

for nonpayment of the tax or for failure to properly display the decal evidencing the payment of the tax. Upon proof of payment of the occupation tax provided for in the division, the penalties provided for in section 44-85, and the five dollars (\$5.00) release fee, the tax assessor-collector or his departmental employees will remove the seal. (Code 1968, § 44-76; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-87. Penalty for removal of sealed machine.

It shall be unlawful to remove from the premises any machine that has been sealed pursuant to section 44-86. Whoever shall remove a machine that is sealed shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). (Code 1968, § 44-77; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 92-1449, § 61, 11-4-92)

Charter reference—Penalty for ordinance violation, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 44-88. Penalty for breaking seal.

Whoever shall break the seal affixed pursuant to section 44-86, or exhibit, display or remove any machine on which such seal has been broken, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(Code 1968, § 44-78; Ord. No. 75-1800, § 1, 10-7-75; Ord. No. 92-1449, § 62, 11-4-92)

Charter reference—Penalty for ordinance violation, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 44-89. Exemptions.

(a) Service coin-operated machines, merchandise coin-operated machines, gas meters, cigarette vending machines which are now subject to an occupation or gross receipts tax, and coin-

operated machines designed for and utilized exclusively by children are expressly exempt from the tax levied in this division.

(b) Coin-operated machines that have been remanufactured or altered not to accept coins are expressly exempt from the tax levied in this division unless they are operated by payment of a fee, as described in section 44-82, coin-operated machines.

(c) Coin-operated machines operated solely in a private residence and not available to the general public are expressly exempt from the tax levied in this division.

(Code 1968, § 44-79; Ord. No. 75-1800, § 1, 10-7-75)

Sec. 44-90. No authorization for illegal machines.

Nothing contained in this division shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table or coin-operated machine, the keeping, exhibition, operation, displaying or maintenance of which is illegal or in violation of any article of the Penal Code of this state, or the constitution of this state. (Code 1968, § 44-80)

Secs. 44-91—44-100. Reserved.

ARTICLE III. HOTEL OCCUPANCY TAX

Sec. 44-101. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Consideration* shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.
- (2) *Hotel* shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The